

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Brandon T. Matney,

Plaintiff,

v.

Wells Fargo Bank, National Association,

Defendant.

Case No. 4:18-cv-02642-CMC

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, defendant Wells Fargo Bank, National Association (“**Wells Fargo**”), by and through its undersigned counsel, hereby removes the above-captioned action from the Court of Common Pleas for Horry County, South Carolina to the United States District Court for the District of South Carolina, Florence Division. Wells Fargo is entitled to removal pursuant to 28 U.S.C. §§ 1331 and 1367, based on federal question jurisdiction and supplemental jurisdiction. As grounds in support of this Notice of Removal, Wells Fargo respectfully shows the Court as follows:

1. On or about August 23, 2018, Plaintiff Brandon T. Matney (“**Plaintiff**”) filed a Complaint against Wells Fargo in the Court of Common Pleas, County of Horry, State of South Carolina, under Case No. 2018-CP-26-04877 (“**State Court Action**”). Plaintiff brought three causes of action related to a third-party’s allegedly fraudulent use of Plaintiff’s debit card. Plaintiff asserted claims for a violation of Electronic Funds Act (15 U.S.A. § 1963 *et seq.*), negligence, and breach of contract. A copy of the Complaint is attached as Exhibit A.

2. Wells Fargo was served with a copy of the Summons and Complaint filed in the State Court Action on August 30, 2018.

3. This Notice of Removal is filed within 30 days of service of Defendant Wells Fargo, in accordance with the provisions of 28 U.S.C. § 1446.

4. This is a civil action arising under the Constitution, laws, or treatises of the United States because Plaintiff's Complaint names a claim for violation of the Electronic Funds Act (15 U.S.A. § 1963 *et seq.*). Plaintiff's Complaint therefore presents a federal question within the meaning of 28 U.S.C. § 1331, as it arises under the laws of the United States.

5. This Court has supplemental jurisdiction over Plaintiff's claims for negligence and breach of contract because these causes of action are related to the exact same activity that forms the basis for Plaintiff's federal claim. Thus, because Plaintiff's negligence and breach of contract claims concern Wells Fargo's allegedly improper handling of Plaintiff's funds, it is clear that Plaintiff's state law claim in this case is "so related to claims in the action within [this Court's] original jurisdiction that they form part of the same case or controversy" and, as a result, fall squarely within this Court's supplemental jurisdiction as provided under 28 U.S.C. § 1367(a); *see also* 28 U.S.C. § 1441(c) (providing that "[w]henver a separate and independent claim or cause of action within the jurisdiction conferred by section 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein").

6. In accordance with 28 U.S.C. §§ 1441(a) and 1441(c), venue of the removal action is proper in this Court because it is in the district and division embracing the place where the state court action is pending.

7. In accordance with 28 U.S.C. § 1446(d), promptly after the filing of this Notice of Removal, Wells Fargo will give written notice of the removal to the Plaintiff and will file a copy of this Notice of Removal with the Clerk of Court of Common Pleas, County of Horry, State of South Carolina.

WHEREFORE, Wells Fargo hereby gives notice that this action is removed to the United States Court for the District of South Carolina, Florence Division.

September 26, 2018

s/ John C. Hawk IV

John C. Hawk IV

Federal ID No. 9853

S. Sterling Laney, III

Federal ID No. 6255

Thomas M. Cull

Federal ID No. 12227

WOMBLE BOND DICKINSON (US) LLP

5 Exchange Street

Charleston, SC 29401

Telephone: (843) 722-3400

E-mail: John.Hawk@wbd-us.com

Sterling.Laney@wbd-us.com

Thomas.Cull@wbd-us.com

Attorneys for Defendant Wells Fargo Bank, N.A.